

Message Text

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ACTION NEA-10

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TO SECSTATE WASHDC 1673

UNCLAS KUWAIT 4670

DEPT. FOR NEA/ARP ZIOLKOWSKI

E.O. 11652: N/A
TAGS: ENRG, KU
SUBJECT: AMINOIL ARBITRATION

REF: (A) KUWAIT 3983, (B) KUWAIT 2506

1 EMBOFF CALL ON MOHSEN ABDUL HAFEZ (VICE PRESIDENT OF DEPARTMENT OF LEGAL ADVICE AND LEGISLATION) AND CHIEF NEGOTIATOR FOR GOK ON AMINOIL ARBITRATION MATTER RESULTED IN FOLLOWING INFORMATION.

2. RECENT MEETING IN PARIS OF ABDUL HAFEZ AND MARTIN HUNTER, LONDON SOLICITOR FOR GOK, WITH AMINOIL REPS OWEN, O'DONNELL, YOUNG, AND ISON RESULTED IN DRAFT ARBITRATION AGREEMENT. THIS DRAFT HAS BEEN SUBMITTED TO OIL MINISTER SHEIKH ALI KHALIFA AL-SABAH FOR HIS APPROVAL AND/OR COMMENTS. SINCE ABDUL HAFEZ GOES ON A 40 DAY VACATION BEGINNING FIRST WEEK IN SEPTEMBER, ACTIVITY ON THE GOK SIDE WILL LIKELY BE SLOW FROM THEN UNTIL AFTER OCT. 15. HOWEVER, ABDUL HAFEZ SAID HE HOPES "TO EXCHANGE LIST OF ARBITRATORS" BEFORE HIS VACATION.

3. DRAFT AGREEMENT APPARENTLY PROVIDES FOR THREE ARBITRATORS, ONE BY AMINOIL (ALREADY NAMED), GERALD FITZMAURICE;
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ONE BY GOK, (POSSIBLY A SWISS ATTORNEY) AND ONE BY MUTUAL AGREEMENT OF THE PARTIES. SHOULD THE PARTIES FAIL TO AGREE, THE TWO ALREADY SELECTED ARBITRATORS WOULD SELECT A THIRD. IF THAT EFFORT IS UNSUCCESSFUL, THEN THE FRENCH COURT OF CASSATION MAY SELECT THE THIRD ARBITRATOR.

4. ABDUL HAFEZ TERMED RECENT LOCAL PRESS REPORTS DESCRIBING

A BREAKDOWN IN NEGOTIATIONS "ALL WRONG". HE INDICATED NEGOTIATIONS ARE "ON TRACK" AND PROCEEDING. ABDUL HAFEZ GAVE A LETTER TO EMBOFF AND REQUESTED ASSISTANCE IN TRANSMITTING IT TO BILL OWEN, AMINOIL ATTORNEY, DUE TO RAMADHAN MAIL DELAYS. LETTER WILL BE POUCHED AUG. 26 TO NEA/ARP FOR FORWARDING.

5. ACTION REQUESTED: NEA/ARP PLEASE ADVISE LARRY ISON AND BILL OWEN TO EXPECT LETTER AND INFORM THEM OF CONTENTS OF THIS CABLE. ABDUL HAFEZ LETTER INDICATES GOK OBJECTS TO AMINOIL REQUIREMENT THAT THE COUNCIL OF MINISTERS SHOULD GRANT MINISTER OF OIL AUTHORITY TO SIGN AGREEMENT. ABDUL HAFEZ BELIEVES THIS WOULD SET A BAD PRECEDENT AS MINISTER ALREADY HAS THE AUTHORITY ACCORDING TO THE CONSTITUTION. LETTER ALSO SUGGESTS EXCHANGES OF LIST OF ARBITRATORS BE BETWEEN MINISTRY AND COMPANY NOT THROUGH OFFICES OF LONDON SOLICITORS.
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